



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lexrett Gallonstall Building,

100 Cambridge Street, Boston 02204

August 19, 1983

The Corporation manufactures and sells or rents a machine used to screen soil aggregates. Topsoil, sand or gravel is loaded into the machine, which sifts through the desired grade of material to be sold or used by the operator. The [machine] is equipped with wheels and is designed to be towed behind a truck. You ask whether sales and rentals of the [machine] qualify for exemption from the sales tax as machinery used in an industrial plant under General Laws Chapter 64H, Section 6(s) and the regulations thereunder.

There is an exemption from the sales tax for sales of machinery used directly and exclusively in an industrial plant in the actual manufacture, conversion or processing of tangible personal property to be sold. The term "industrial plant" means a factory at a fixed location primarily engaged in the manufacture, conversion or processing of tangible personal property to be sold in the regular course of business. (G.L. c. 64H, § 6(s), as amended by Chapter 555, Section 45, Acts 1971).

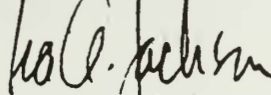
The "fixed location" requirement was added to the definition of an industrial plant in 1971. Massachusetts Sales and Use Tax Regulations, Amended Regulation No. 18, (1969), dealing with the machinery exemption was adopted under the prior law.

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Sales and rentals of the [mobile screening machine] do not fall within the exemption provided in Section 6(s) of Chapter 64H and are subject to the sales tax.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. C. Jackson", written over the typed name of the Commissioner of Revenue.

Commissioner of Revenue

IAJ:MTD:mh

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